



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,704	09/28/2001	Tetsujiro Kondo	450100-03501	6412
20999 7590 05/14/2008 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				
EXAMINER				
SALTARELLI, DOMINIC D				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
05/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/966,704	Applicant(s) KONDO ET AL.
Examiner DOMINIC D. SALTARELLI	Art Unit 2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-17 and 19-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2623

Continuation of 11, does NOT place the application in condition for allowance because: First, applicant argues that Kimpara does not describe detecting motion vectors of individual audience members, stating that Kimpara's first embodiment is only applicable to a single object (applicant's remarks, page 14, last paragraph and page 17, last paragraph). In response, the image data for which motion vectors are calculated (Kimpara, col. 4, lines 48-68) is applied to an entire audience (Kimpara, col. 5, lines 45-56 and col. 7, lines 43-51).

Second, applicant argues that knowledge of a currently playing scene is immaterial to the way in which Hennes controls his display (thus no auxiliary information indicative of a scene, applicant's remarks, pages 16-17). In response, Hennes makes it quite clear that the information received from the audience has a direct effect upon the flow of the presentation of content to the audience, and suggesting the Hennes system performs otherwise is unreasonable. See Hennes, col. 6, lines 41-45. "The show control system 500 may alter the display of the program in accordance with the data derived from these sensors 510, to thereby enable the audience to influence the display of subsequent images."

Third, applicant argues that there is no suggestion to use the point of foveation or any element in Deering's gaze tracking unit to detect the response rate of an audience (applicant's remarks, page 17). In response, the examiner relies upon Deering to show it was known in the art to use load bearing sensor means to receive information regarding the state of audience members. Deering's gaze tracking mechanisms are not relevant to the outstanding rejection.

Fourth, applicant argues, regarding claims 7 and 21-25, that the claim limitation regarding responding to a specific audience response by type is not found in the rejection (applicant's remarks, pages 18-19 and 21). In response, as noted in the rejection, one of the specific types of audience responses listed is "clapping", which is found in the Kimpara reference (col. 7, lines 43-51).

Fifth, applicant states that there is no motivation to use the stepping force detectors disclosed by Imagawa to indicate the response state of audience members (applicant's remarks, page 19). In response, the precedent is set by Hennes for the desirability for sensors which relay audience information. The motivation for using the different types of sensors that were known in the art is thus provided by the Hennes reference.

Sixth, applicant argues that Lu is only concerned with accurately recognizing a single individual, not an entire audience (applicant's remarks, page 20). In response, there is no limitation in Lu which restricts the monitoring using the disclosed cameras to a single individual, Lu simply teaches the cameras are mounted within a household environment. Further, the reason Lu is introduced is to improve the performance of the cameras disclosed by the combination of Hennes and Kimpara by filtering out sources of interference.

Seventh, applicant argues that there is no motivation to combine the Stevenson reference with the proposed combination, stating that Stevenson is only concerned with recognizing voice commands (applicant's remarks, page 20). In response, the audio filtering of Stevenson is concerned specifically with identifying human voices from input picked up by a microphone. Hennes establishes that audience information of interest are the sounds made by the audience, which are human voices.

Similarly, for applicant's last argument regarding the lack of motivation of the King reference, the same line of reasoning applies, as King's filters are specifically tailored to pass sounds in the human voice range and block others..